

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)	
CONSUMERS ENERGY COMPANY)	
for authority to increase its rates for the)	
generation and distribution of electricity)	Case No. U-18322
and for other relief.)	
_____)	

At the July 12, 2017 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER GRANTING REHEARING AND CLARIFICATION

On May 11, 2017, the Commission issued an order in this case, which also captioned Case Nos. U-18197, U-18239, U-18248, and U-18255¹ (May 11 order), as a follow up order to the March 10, 2017 order (March 10 order) in the same cases. The March 10 order, among other things, directed the Commission Staff (Staff) to convene a technical conference in Case No. U-18197 to look into resolving certain issues outside a fully contested case proceeding. In its May 11 order, the Commission found it “necessary to reinforce the Commission’s determination to address certain issues related to its implementation of Section 6w of 2016 PA 341 (Act 341), MCL 460.6w, solely through the use of the technical conferences instead of in the context of contested cases. May 11 order, p. 2. Additionally, the May 11 order provided that:

¹ Case No. U-18255 is DTE Electric Company’s pending electric rate case.

The Commission is concerned that Consumers Energy Company (Consumers) and DTE Electric Company (DTE Electric) have, in their recently-filed applications in their [state reliability mechanism] SRM cases and in their currently-pending general rate cases, filed testimony pertaining to these capacity demonstration issues and are seeking in those proceedings to adjudicate what may be counted in the capacity demonstration determinations to be made by the Commission. While the Commission recognizes Consumers and DTE Electric may have been attempting to keep options open in various cases to address these issues, the Commission finds that the use of an adjudicative proceeding to resolve these issues is misplaced.... The Commission has determined that technical conferences, rather than piecemeal litigation that cannot involve all of the affected energy providers at the same time, are a sounder method to determine this issue.

May 11 order, p. 3-4, notes omitted.

On May 26, 2017, DTE Electric filed a petition in Case No. U-18255 seeking clarification of the Commission's determination in its May 11 order that certain SRM issues pending in its current rate case should be addressed in other cases. DTE Electric argued that it should be allowed to present all evidence on all elements of its total costs, which would include all costs identified as capacity-related costs in its rate case. DTE Electric further argued that its evidence in its rate case should be allowed to include any SRM and capacity charge matters related to the terms and conditions set forth in its tariffs.

On June 15, 2017, the Commission granted DTE Electric's petition for rehearing in Case No. U-18255, and after addressing the issues argued by various parties stated that:

The Commission finds that there is good cause to clarify its May 11 order at this time. It is now apparent to the Commission that, despite the desire of the Commission to simplify the complexity of several interrelated and time-constrained contested case proceedings that are simultaneously pending before the Commission, accomplishing that goal will still take considerable effort. It remains the Commission's intent to simplify Case No. U-18255, which must be resolved by April 19, 2018. In so doing, the Commission finds that the ALJ, DTE Electric, and the intervening parties should be able to rely upon decisions made in the final order in Case No. U-18248 to avoid the expenditure of their time and resources re-litigating issues in Case No. U-18255 on which there is no debate, fundamental dispute, or change of circumstances from the positions taken in Case No. U-18248. However, the Commission wishes to clarify that the May 11 order was never

intended to infringe on any party's right to fully adjudicate any contested issue in Case No. U-18255.

June 15, 2017 order in Case No. U-18255 (June 15 order), p. 12.

On June 2, 2017, Consumers filed its own petition for rehearing and clarification of the May 11 order. The Association of Businesses Advocating Tariff Equity, Constellation NewEnergy, Inc., and the Staff filed answers to the petition.² In its answer, the Staff argued that both DTE Electric's and Consumers' petitions for rehearing seeks clarification of the same issues. The Staff further argued that the June 15 order effectively provided Consumers with the relief it requested in its petition but that the Commission may wish to officially extend its clarification provided in its June 15 order to this case.

The Commission agrees and finds that Consumers' petition for rehearing is granted. The Commission further finds that the clarification of the May 11 order provided in the Commission's June 15 order in Case No. U-18255 should be extended to this case.

THEREFORE, IT IS ORDERED that:

A. The petition for rehearing and clarification filed by Consumers Energy Company on June 2, 2017, is granted.

B. The Commission's May 11, 2017 order in Case No. U-18197 *et al.* is clarified to indicate that the Commission did not intend to require the parties and Administrative Law Judge Sharon L. Feldman to expend their time and resources re-litigating issues in Case No. U-18322 on which there is no debate, fundamental dispute, or change of circumstances from the positions taken in Case No. U-18239.

² The Commission addressed similar issues raised by these same parties in answer to DTE Electric's petition in Case No. U-18255.

C. The Commission's May 11, 2017 order in Case No. U-18197 *et al.* is further clarified to indicate that the Commission did not intend to foreclose any party's opportunity to update the inputs and data and other evidence submitted in Case No. U-18239 in their presentations in Case No. U-18322 that could have an impact on Consumer Energy Company's rates, terms, or conditions of service.

D. The capacity demonstration issues that are being resolved in the context of the technical conferences and through briefing established by the Commission in Case No. U-18197 shall not be subject to re-litigation in Case No. U-18322.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Rachael A. Eubanks, Commissioner

By its action of July 12, 2017.

Kavita Kale, Executive Secretary